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New York

President: Mr. Essy ..... (Côte d'Ivoire)

The meeting was called to order at 3.15 p.m.

Agenda item 35 *(continued)*

Law of the sea

Report of the Secretary-General (A/49/631 and Corr.1)

Draft resolution (A/49/L.47)

Mr. Yousif (Sudan) *(interpretation from Arabic)*: At the threshold of the legal regime of seas and oceans with the coming into force of the United Nations Convention on the Law of the Sea we should recall with appreciation and gratitude all those whose efforts, knowledge and dedication, since 1967, made it possible to arrive at the Convention, including the latest consultations, led by the Secretary-General, which led to the agreement on the implementation of Part XI of the Convention signed on 28 July 1994.

On this occasion, we have to commend the unremitting and constructive efforts of the Division for Ocean Affairs and the Law of the Sea which helped to expand acceptance and application of the provisions of the Convention in a rational and harmonious fashion.

It may be appropriate here to highlight the participation by my country in arriving at the Convention. Sudan participated as much as possible, in the consultations which led to the Convention. Sudan was Rapporteur to the sessions of the Third Conference of the Law of the Sea from the first session which started on 15 December 1972 through the eleventh resumed session, which ended by Sudan's signing of the Convention on 28 December 1982. Sudan also took part in the Preparatory Commission of the International Sea Bed Authority and the International Tribunal for the Law of the Sea as Vice-Chairman of the Fourth Special Commission and recently in the consultations conducted by the Secretary-General which led to the implementation of Part XI of the Convention signed by Sudan in New York, on 29 July 1994.

The entry into force of the Convention on the Law of the Sea as of 16 November 1994 is an occasion for us to refer to the Declaration of Principles adopted by the General Assembly at its twenty-fifth session in 1970, which proclaimed that: "The sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as the resources of the area, are the common heritage of mankind [and] shall not be subject to appropriation by any means by States or persons." The Declaration also stipulated that "the area shall be open to use exclusively for peaceful purposes by all States — without discrimination". *(Resolution 2749-XXV, paras. 1, 2 and 5)*

The Declaration should be the starting-point for work towards the achievement of the universality of the Convention and the legal system it puts in place. This regime is the minimum that has been possible to reach between countries of the North and the South, between the poor and the rich, with regard to the maintenance of

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freedom of navigation, trade and communications as well as the maintenance of the legal regime of the maritime environment, the protection of that environment from plundering and irrational use of non-renewable resources and preserving the special interests of States that differ from one State to the other. Thus mankind's prosperity may be ensured by full compliance with the provisions of the Convention since it has legal force and is unprecedented in the history of Treaties.

The application of all the provisions of the Convention without exception by all countries will be the main guarantee of the stability of the maritime regime established by the Convention, in consonance with the concept that the enjoyment of rights and benefits should be concomitant with the shouldering of obligations and duties so that an equitable and comprehensive maritime regime may be established.

The entry of the Convention into force, marks the beginning of a very difficult and demanding phase that has to do with the building of the institutions of the maritime regime created by the Convention. In addition to the necessary political will, that phase will require the availability of resources and the selection of the most qualified elements to undertake the tasks involved.

The entry of the Convention into force will also have far-reaching effects on the international community in general and, in particular, on all international organizations involved in marine affairs.

The Secretary-General, in his report contained in document A/49/631, reviewed in Part One thereof the Developments relating to the Convention on the Law of the Sea and in Part Two the Activities of the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs.

We must draw attention also to the fact that entry of the Convention into force will entail additional financial and technical burdens on the developing countries. Consequently, the Secretary-General should provide support and technical assistance to the developing countries and the least-developed countries, in particular in the coming period, through the specialized bodies of the Secretariat in order to help those countries to meet their obligations under the Convention, particularly those obligations which require expertise and the availability of studies and information. This effort should be accompanied by wide dissemination of information by the United Nations and the Department for Ocean Affairs and the Law of the Sea and the Department of Public Information with a view to promoting better international understanding of the provisions and consequences of the Convention. In this regard we commend the initiatives of the Secretary-General as outlined in paragraph C of his report wherein he called on international organizations involved in marine affairs to contemplate further actions to be taken as a consequence of the entry into force of the Convention.

One of the major contributions of the Convention in the field of international peace and security is the part relating to the settlement of disputes through the International Tribunal for the Law of the Sea.

My delegation is satisfied with the progress made in establishing the Tribunal and electing its judges starting with the decision of the States Parties in their meeting in New York on 21 and 22 November. My delegation hopes that the States Parties will be able to deal with all outstanding questions of detail relating to the establishment of the Tribunal so that it may start to function on time as agreed.

Given our awareness of the historic importance of the United Nations Convention on the Law of the Sea, my delegation has joined the sponsors of the draft resolution contained in document A/49/L.47, to signify full agreement with the requirements included in the draft resolution which, we believe, will contribute to the application of the Convention, and to the establishment of its institutions and mechanisms. We believe the draft resolution contains all that is needed to achieve these goals.

In this connection, we thank Ambassador Satya Nandan for his efforts in preparing the draft resolution, for his valuable contributions and his initiative in conducting the informal consultations that preceded the drafting of text of the draft resolution.

Sudan participated in the inaugural meeting of the International Seabed Authority, held in Kingston, Jamaica from 16 through 18 November 1994. We wish on this occasion to pay tribute to the Jamaican people for their hospitality. The selection of Jamaica as the headquarters of the International Seabed Authority is a source of pride for all developing countries. We are aware that Jamaica will have to shoulder a number of burdens as a result of this selection. However, we are confident that it is fully prepared to perform its duties, as it did throughout the preparatory stages.

Mr. Owada (Japan): At the outset, I should like to express, on behalf of the Government of Japan, my sincere gratitude to the Secretary-General, Mr. Boutros Boutros-Ghali, as well as to the Under-Secretary-General for Legal Affairs and the Law of the Sea, Mr. Hans Corell, and his staff for the informative reports and other publications they have prepared on the development of the law of the sea.

I wish to begin my observations on the present item by joining other delegations in expressing my profound satisfaction at the fact that the United Nations Convention on the Law of the Sea finally entered into force on 16 November 1994. This achievement was made possible by the almost unanimous adoption of the Agreement relating to the Implementation of Part XI at the resumed meetings of the forty-eighth session of the General Assembly, last July. The Agreement paved the way for the convening of the first meeting, in Kingston, Jamaica, last month, of the International Seabed Authority, with universal participation on the occasion of the entry into force of the Convention. More than 130 delegations, including my own, celebrated the inauguration of the International Seabed Authority, demonstrating that both the Convention and the Authority have the blessing and enthusiastic support of the entire international community.

It is true that we have had to wait longer than expected for the entry into force of the Convention. Although we reached an agreement on the international framework for management and control of deep-sea-bed mining as part XI of the Convention in 1982, many States expressed their dissatisfaction with part XI at the time of its adoption, inasmuch as it contained many controversial provisions that would have had prohibitive effects on the development of commercially based seabed mining. Those States — mainly industrialized ones — refrained from ratifying the Convention, while developing States were fulfilling the requirements for its entry into force. It has been commonly recognized in recent years that if those stumbling-blocks had remained in part XI, the Convention would have lacked universal applicability, and would thereby have jeopardized the stable legal order of the sea.

Japan, as one of the world's leading maritime nations and, in particular, one of the pioneer investors in deep-sea-bed mining, has made every possible effort, in cooperation with other like-minded countries, to overcome these difficulties so that a viable regime could be secured, a regime based on universal participation and reflecting the political and economic changes that have taken place since the Convention was adopted. I am extremely gratified at the fruitful result that we have finally been able to produce.

I wish to take this opportunity to express the appreciation of my delegation to the former Secretary-General, Mr. Pérez de Cuéllar, for initiating a series of informal consultations for the purpose of redefining the framework for the deep-sea-bed, as well as to the present Secretary-General, Mr. Boutros Boutros-Ghali, for carrying forward the work of his predecessor.

Under their leadership, the participants in the consultations, from both industrialized and developing countries, have succeeded in adopting the Agreement relating to the Implementation of part XI. By streamlining the structure of the Authority and removing the excessive regulations and financial burdens placed on commercial entities and sponsoring States, the Agreement provides a framework for improving the climate for investing in deep-sea-bed mining.

Another equally important development was achieved last month. The first meeting of the States Parties to the Convention on the Law of the Sea decided by consensus to hold the first election of the members of the Tribunal in August 1996, instead of within six months of the entry into force of the Convention, as provided for in annex VI of the Convention. My delegation welcomes this important decision, as the postponement provides additional potential States parties with the opportunity to nominate their candidates and thus ensures the representation of the world's principal legal systems and equitable geographical representation in the composition of the members of the Tribunal. My delegation believes that this is truly an important achievement in that it will further promote universal participation in the Convention.

As a result of the delay in the entry into force of the Convention due to the problems with part XI, the general regime of the maritime order contained in other parts of the Convention has been rendered somewhat less stable by the impasse in regard to deep-sea-bed mining. While the international community awaited the adoption and the entry into force of the Convention, the legal order of the sea was gradually undergoing structural changes, such as the emergence of claims for the establishment of an exclusive economic zone and a tendency among coastal States to extend their national jurisdiction to the outer seas. The emergence of a number of new problems of a global nature in such areas as the environment, development in science and technology and drug

trafficking also accelerated these changes. The entry into force of the Convention, with its promising prospect of universal application, is expected not only to bring an end to the serious legal disorder resulting from the unilateral extension of jurisdiction by coastal States, but to provide a solid, integrated legal basis for a new international cooperation on the use of the sea.

Throughout the 12 years since the adoption of the Convention, Japan has contributed, both as a signatory and as a certifying State, to the development of deep-seabed mining. In particular, Japan has always promoted the global objective of realizing the concept of the common heritage of mankind while giving due regard to the particular importance of the needs and interests of developing States. The development of deep-seabed mineral resources is also of considerable importance to Japan, which depends on the import from overseas of the minerals derived from polymetallic nodules.

The Deep Ocean Resources Development Company, Japan's contractor for deep-seabed mining which was registered as a pioneer investor in 1987, has pursued a variety of activities which have extended the frontiers of seabed development. It has also provided a training course for trainees from developing countries. Moreover, in accordance with the agreement reached in the Preparatory Commission, Japan has undertaken preparatory work for the exploration of mine sites reserved for the Authority in the central region of the Pacific and submitted relevant data and other information to the Commission. Thus, Japan has made valuable contributions to the establishment of a deep-seabed mining regime. It will continue its endeavours in this regard in the future.

Japan has already notified the Secretary-General of its consent to the provisional application of the Agreement relating to the implementation of part XI, effective from the date of the Convention's entry into force, and participated in the first session of the Authority held in Jamaica. Let me reiterate the readiness Japan expressed on that occasion to discharge to the best of its ability the responsibilities entrusted to it by the international community as soon as the Authority commences its work.

Needless to say, the effective implementation of the Convention and its uniform and consistent application can be realized only when national legislation and State practice are in harmony with the relevant provisions of the Convention. Japan, for its part, has been accelerating domestic procedures with a view to ratifying the Convention and the Agreement at the earliest opportunity. This process includes adjusting existing laws and regulations and, if necessary, preparing new legislation so that Japan can fully comply with every provision of the Convention. Since the Convention covers a wide range of closely interrelated subjects, the completion of this process will require a tremendous amount of effort and entail complex procedures. My Government is nevertheless determined to make every effort to ensure that Japan's maritime legal order on the uses of the sea is fully consistent with the Convention. Recognizing the historic importance of the entry into force of the Convention and its contribution to the establishment of a stable legal order of the sea, Japan has joined the sponsor of the draft resolution before us.

In concluding my remarks today, I should like to reiterate that, as one of the leading maritime nations, Japan wholeheartedly welcomes the entry into force of the Convention. It remains steadfast in its commitment to the consolidation of a single and stable regime of the sea. I should also like to call upon my colleagues here to join forces in further strengthening cooperation to promote a stable legal order of the sea as embodied in the Convention.

Mr. Rosenne (Israel): It is over 10 years since I last had the honour of representing my country in the General Assembly, at that time also on the law of the sea. I am very privileged to be returning to this Assembly under your presidency, Sir, and to be speaking again on the same item some 12 years after the Third Conference at which you, too, were a representative.

As I look around this Hall, which I first frequented shortly after it was opened, I note the difference that has come over it. The United Nations was then largely preoccupied with the aftermath of the war during which it was founded. Issues of membership in the Organization loomed large. Decolonization had not yet been conceived as a matter of practical politics which the United Nations could take upon itself.

Why do I mention this? Because there was one issue which the international organizations started to examine as long ago as 1924, under the auspices of the League of Nations, and which the General Assembly has had continuously under consideration since 1950, as was pointed out by the representative of Fiji, Ambassador Nandan, who himself has played and is continuing to play such an important role in the restless evolution of the matter. Had the Conferences of 1930, 1958 and 1960 "succeeded", the end product could well have turned out

to be a pyrrhic victory and a long-term international disaster.

The 1958 Conference was the first dealing with the law of the sea to feel the beginning of the impact of decolonization. This reached its climax in the Third United Nations Conference on the Law of the Sea with a result that may be said to reflect the very broad consensus of the entire international community. The sea and the oceans at one and the same time unite the nations of the world and separate them from one another. The seas can be used for offensive purposes and they can equally be used for defensive purposes. The cardinal feature of the Montego Bay Convention is that it essentially reflects the unifying factor of common international interest and concern in and about the seas, not the divisive one. It gives legal form and substance to the defensive and pacific functions of the oceans, not to their offensive and bellicose functions.

As is a matter of common knowledge, in 1982 Israel, to its regret, found itself obliged to vote against the adoption of the Convention. The reasons were fully explained at the time, especially during the course of the eleventh session of the Conference in 1982, in writing and orally. We also had difficulties over the formulation of the Final Act, and here I wish to place on record our appreciation of the efforts of those who assisted in finding a way to overcome those difficulties, particularly the Special Representative of the Secretary-General at the time, the late Ambassador Zuleta of Colombia, and Mr. Suy of Belgium, who was then Legal Counsel of the United Nations. I have heard expressions of surprise at the way in which that Final Act was adopted paragraph by paragraph in a formal meeting of the Conference. This is indeed a very rare occurrence in modern diplomatic conferences, and I hope that these words of mine will help in an understanding of what was involved.

The position we adopted in 1982 in relation to the Montego Bay Convention was a reflection of the general situation existing at the time. It was conditioned by two main factors which were prominent then: one concerned participation both in the Conference and in the Convention; the second related to some aspects of the provisions of the Convention regarding straits used for international navigation. To a very large extent, with the passage of time and the major turn in the general situation in the Middle East which has taken place in the interval, adequate solutions to both these sets of issues seem to have been reached.

I am therefore glad to be able to state that the Government of Israel welcomes the Agreement relating to the implementation of Part XI of the Montego Bay Convention as embodied in resolution 48/263. For reasons beyond its control the delegation of Israel was absent from that meeting of the General Assembly, and this part of my statement today indicates our position. We find that the Agreement covers all the outstanding points in Part XI which might have caused us some concern, and from a wider perspective we see it as a major step forward in the development and the consolidation of the law of the sea. We are examining the problems relating to our signing it. We hope it will achieve its object of accomplishing within as short a period as is feasible the widest possible participation in the Convention itself. We realize that the requirement of ratification set out in article 306 of the Convention may produce unexpected or unanticipated roadblocks in the way of the achievement of universal participation in the Convention. A Convention of this magnitude cannot be isolated from considerations of internal politics in the different countries, and mine is no exception.

With regard to the Convention itself — incorporating the Part XI Agreement — I am also happy to be able to state that our reservations have in large measure been met by events that have occurred since Montego Bay, and our competent authorities at home are therefore putting in hand a full review of the Convention with a view to accession to it. We are in particular impressed with the revised formulation of the law on innocent passage through the territorial sea. We had serious reservations over the changes in that aspect which were reluctantly accepted at the 1958 Conference. We find the new formulation, largely based on proposals advanced by Fiji and the United Kingdom, as later interpreted by the Jackson Hole Agreement between the United States and the then Soviet Union, more satisfactory.

I would like to say a few words on the draft resolution before us.

I think I have said enough to indicate that we are satisfied with the preambular paragraphs. They reflect in sober terms, almost in understatement, the fact that the year 1994 has witnessed the culmination of a complex diplomatic operation which — as I have mentioned — commenced as long ago as 1924 and has continued virtually without stopping since then.

With regard to operative paragraph 3, while we support that provision, we have to be mindful that it cannot override the requirement of ratification laid down in the Convention itself.

With regard to operative paragraphs 5, 6 and 11, they are justified by the unusual circumstances which have occurred since the adoption of the Convention in 1982. The amendment provisions of the Convention were given close attention when the final clauses were being negotiated, and while annex VI, article 4, paragraph 3, appears clear enough regarding the time when the first election of the members of the Law of the Sea Tribunal should take place, there are other provisions of the Convention, notably article 308, paragraph 3, which acknowledge that the Assembly of the Authority might not, at its first meeting to take place on the entry into force of the Convention, be able to elect a Council strictly in accordance with the relevant provisions of the Convention regarding its composition. We think that similar considerations can be applied to the actions of the States parties in relation to the election of the members of the Tribunal, especially when we have regard to annex VI, article 35, paragraph 2, on the composition of the Seabed Disputes Chamber.

More particularly with regard to operative paragraph 11, while we appreciate the need for preparations of a practical nature for the organization of the Tribunal and the establishment of its library, annex VI, article 12, deals very specifically with the Tribunal's power to appoint its Registrar and other officers and staff. Accordingly, we understand paragraph 11 as not prejudging that provision.

With regard to operative paragraphs 13 and 14, we would like to join previous delegations which have expressed their appreciation of the valuable report (A/49/631) presented this year by the Secretary-General. As we have not addressed the matter in previous discussions on the law of the sea in the General Assembly since Montego Bay, I would like to say that the whole series of reports submitted by the Secretary-General, both the general reports and the specific ones submitted from time to time at the request of the General Assembly, are both of a high standard and of the greatest value in bringing to general attention major developments, both concerning the Convention itself and in connection with ocean affairs more generally. We think that some way should be found to give these reports — all of them — a wider and, if I may say so without disrespect to the documentation services of the United Nations, a more attractive format.

With regard to the Office, now Division, for Ocean Affairs and the Law of the Sea, as one who has been actively involved since 1982, in the University of Virginia, in attempting to piece together in an accessible form the full legislative history of every provision of the Convention, I have every reason to know first-hand what valuable and willing help its personnel, of all ranks, have rendered and can render in assisting in an understanding of the provisions of the Convention, what a given provision of the Convention sets out to do, problems which those who negotiated a given article or a larger section of the Convention faced, and what compromises were accepted. No international treaty can reach the level of perfection that a draft instrument prepared by a skilled group of experts can attain. The requirement of diplomatic compromise in the nature of things leads to texts which some might find to be ambiguous and others perfectly clear — a balancing act magnified sixfold when rendered in the six official languages of the Convention. So again, I express my deep appreciation to the Division for all its valuable work.

With regard to operative paragraph 15 (f), on a small technical point, we are glad to see formalized once and for all the distinction between the formal depositary functions of the Secretary-General under the Convention and the special functions imposed on him regarding the deposit of maps and charts with the Secretary-General. That has always been our understanding of the Convention, and the clarification is appropriate.

With regard to operative paragraph 16, we understand that the relevant provisions of annexes V, VII and VIII to the Convention, regarding conciliation, arbitration and special arbitration procedures, do not impose on the Secretary-General any major administration or support functions. Our reading of the Convention is that if any link in respect of the arbitration and conciliation processes is to be established with the United Nations or, for that matter, with any other competent international body, such as a permanent court of arbitration, that is a matter for the parties. We think that this should remain so and that any link with the United Nations should be kept loose and optional, remaining within the four walls of the Convention.

We welcome the idea of an annual review of oceans affairs in the General Assembly. In fact, this has become quite normal and is encouraged by paragraph 2 (a) of article 319 of the Convention. However, I should like to take this opportunity of stating that my delegation has noted that matters relating to the sea have also been

discussed in other organs of the General Assembly — notably the Second Committee. It is true that in some respects the discussions at that level related not to the law of the sea as a whole but to more specific problems arising in connection with, or out of, other agenda items already being discussed in that Committee.

We were glad to be able to be one of the sponsors, a few years ago, of the major draft resolution on drift-net fishing, and, this year, of one on the year of the ocean. We observe that the question of straddling fish stocks and highly migratory fish stocks is also being examined in the Second Committee. This is a significant issue already covered in part in the Convention. That is an important Conference, and we hope that Ambassador Nandan will be able to lead it to a successful conclusion in 1995.

At the same time, we should like to express the hope that those responsible for organizing the work of the General Assembly will keep a close watch on where matters relating to different topics and subtopics of the law of the sea are being discussed and will not allow these debates to become widely diffused throughout the General Assembly. Recognition of what operative paragraph 7 terms the "unified character of the Convention" should be reflected in the organization of the work of the General Assembly and other relevant United Nations bodies and the specialized agencies in connection with the seas. Excessive diffusion of the topic through the General Assembly and other organs could turn out to be counter-productive and could lead to unnecessary duplication of efforts, both here and in national administrations.

The Secretary-General's report (A/49/631 and Corr.1), in various places, draws attention to some of the problems that the coastal States of the Mediterranean Sea face. We have noted with satisfaction the last preambular paragraph, which refers to the need to promote and facilitate international cooperation, especially at the subregional and regional levels, in order to ensure orderly and sustainable development of the uses and resources of the seas and oceans. In that connection, we welcome the recent initiative of the European Union with regard to fisheries management in the Mediterranean Sea, and we look forward to a constructive conference in Crete next week.

Israel is a maritime nation which has always been and remains closely concerned with all questions of freedom of navigation and overflight — with freedom of communication generally. We have kept all these aspects under close review — in fact, going back to the first questionnaire of the International Law Commission on these matters in the 1950s — and we should not like our silence during the General Assembly debates since Montego Bay to be misunderstood. The routes of both our commercial shipping lines and our commercial airlines extend to enormous distances — in fact, from the eastern shores of the Pacific to its western shores.

We hope that the Convention — the product of so much inspired human energy and ingenuity — will achieve the aim that the draft resolution sets out: recognition of its fundamental importance for the maintenance and strengthening of international peace and security and its universality as a means of achieving the peaceful uses of the seas and the facilitating of international communication, the efficient and equitable utilization of the living resources of the seas and the preservation of the marine environment, which is, in fact, the total environment of the planet as a whole. We hope that the examination that we are now putting in hand will enable us to accede to the Convention within a reasonable period.

Some 3,000 years ago the poet-King of Israel, David, uttered the formula for integrated control and management of the oceans and their resources. In the Book of Psalms we read:

> "How many are the things you have made, O Lord! You have made them all with wisdom, the earth is full of Your creations.
>
> "There is the sea, vast and wide, with its creatures beyond number, living things, small and great.
>
> "There go the ships and leviathan," —

the whales and the dolphins —

> "that You formed to frolic.
>
> "All of them look to You to give them food when it is due." *(The Holy Bible, Psalm 104, vv. 24-27)*

Mr. Cassar (Malta): The entry into force of the United Nations Convention on the Law of the Sea marks a milestone in the history of this Organization. It is the culmination of the efforts and the demonstration of the will of the international community to put into effect a concept that was launched more than 25 years ago. This

political will was to have far-reaching significance in the establishment of a legal order for the seas and oceans to facilitate international communication and to promote their peaceful use. Equally important, it has provided the framework for the equitable and efficient utilization of their resources, for the conservation of their living resources and for the study, protection and preservation of the marine environment.

The entry into force of the United Nations Convention on the Law of the Sea is of special significance to my delegation. It was in August 1967 that Malta's first Permanent Representative to the United Nations — Ambassador Dr. Arvid Pardo — on behalf of my Government, submitted to the Secretary-General a memorandum requesting the inclusion in the agenda of the twenty-second session of the General Assembly of an item entitled "Declaration and treaty concerning the reservation exclusively for peaceful purposes of the sea-bed and of the ocean floor, underlying the seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind" *(A/6695)*.

The concept of the common heritage of mankind was the basic, key principle which inspired deliberations in this most important area of human activity. Revolutionary in its vision when first launched, this concept remains appealing even today. It provides an inherent link to the past as well as an intrinsic passage to the future. The common heritage of mankind today continues to evolve from a concept to a regime which helps States discern, implement and respect principles and rules governing areas of common concern in the interest of present and future generations.

The General Assembly's adoption on 28 July this year of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea was aimed at facilitating universal participation. The Convention is an important contribution to the maintenance of peace, justice and progress for all peoples of the world. The principles and purposes of the Convention would have been severely handicapped if denied the major premise of universality. This was influential in determining the outcome of the negotiations which led to the Agreement.

Now that agreement has been reached, it is important that universality become a reality. This delegation cannot but support and emphasize the part of the draft resolution which calls upon all States that have not done so to become parties to the Convention and to the Agreement relating to the implementation of part XI of the Convention.

With the Convention's entry into force, the mandate of the Preparatory Commission has expired. We are now in the process of institution-building based on the new mandates which have come into effect. Three new international organizations — the International Seabed Authority, the International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf — will be set up. It is on this process that we must now concentrate.

Much work has already been done by the Preparatory Commission, which we thank and commend. Much still needs to be done in ensuring that such organizations will be both functional and cost-effective. The draft resolution is a reflection of the will to achieve this desired, delicate balance.

The importance of the International Seabed Authority will increase as technological advances in seabed mining make exploitation of minerals more feasible. The International Tribunal provides assurance of dispute settlement and regulation, which are essential ingredients for the overall success of the workings of the Convention.

My delegation looks forward to participating in the negotiations relative to the institutionalization and evolution of these organizations, and it pledges its support to this end.

As important as institutional harmony may be for the success of the United Nations Convention on the Law of the Sea, that success will ultimately depend to a large extent on the political will and commitment of States to abide by its provisions. The international community has declared such a commitment. Early ratification of the Convention will further testify to the universal readiness to promote and give effect to its provisions.

However, the Convention does not merely provide for the institutional machinery currently being put in place; it also provides a stimulus and a basis for negotiations in other fields not sufficiently detailed in the Convention. The forthcoming Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks is an example of forums in which the international community will deal with issues of great interest to a number of States.

Underpinning the concept of common heritage are universal concern and consequent action in the interest of a more secure and equitable order for present and future generations. The protection of the equal sovereignty of States and the defence of the common principles and rules of conduct regulating the international community are at the basis of the notion of security. The continued evolution and enhancement of these concepts form the fabric of norms and standards which guide lawful international behaviour.

Malta has adhered to the provisions of the Convention on the Law of the Sea. We have undertaken our obligations as a State Party and will abide by them. In doing so, we will continue to pursue those avenues which seek new grounds of international agreement regulating other important areas not sufficiently provided for in the Convention.

Mr. Rowe (Australia): My delegation is pleased to co-sponsor and support the draft resolution on the law of the sea, contained in document A/49/L.47.

The year 1994 will surely be regarded by future generations as a major milestone in the history of the law of the sea. The developments that have taken place this year are historic and represent the achievement of a common goal towards which so many have worked over the course of the last generation. These developments include the adoption by the General Assembly of the Agreement relating to the Implementation of Part XI of the 1982 United Nations Convention on the Law of the Sea, which resolved the outstanding differences on the deep-seabed-mining regime; the inaugural meeting of the International Seabed Authority in Kingston, Jamaica; and the first meeting of States Parties to the Convention, at which Parties decided in favour of a one-off deferment of the establishment of the International Tribunal for the Law of the Sea until 1 August 1996. In addition, and most significantly, the Convention itself entered into force on 16 November 1994.

Australia's primary goal during the lengthy negotiations on the law of the sea has been to achieve a widely accepted and comprehensive Convention to deal with all the ways in which humanity interacts with the seas and oceans. The Convention provides a comprehensive legal order for the seas and oceans. It articulates a code of legal principles covering such diverse issues as navigation, marine resource management, mining of the deep seabed and dispute resolution. Hence, it must be considered not only one of the most important legal regimes in history, but also one of the major achievements in treaty making and multilateral cooperation. In welcoming the Convention's entry into force, we consider it appropriate to recognize the crucial role the United Nations has played in the negotiation of the Convention.

Australia is proud to have played a role in the negotiation of the Convention and of the implementing Agreement, which was adopted by the General Assembly with overwhelming support on 28 July this year. The Agreement, by resolving all outstanding differences on the deep-seabed-mining regime, has paved the way for universal participation in the Convention. Our commitment to the package of the Convention and the implementing Agreement is demonstrated by the Australian Government's decision to ratify the Convention. Australia's Foreign Minister, Senator Gareth Evans, conveyed our instrument of ratification to the Secretary-General on 5 October 1994, thereby ensuring that Australia was an original Party to the Convention when it entered into force.

The entry into force of the Convention is more than the achievement of a goal towards which so many have worked. It is also the beginning of a new and important phase of the law of the sea, a phase which offers so much to all of us, not only in terms of resource security and development but also in terms of increased cooperation and certainty, based on the rule of law.

Australia welcomed the inaugural meeting of the International Seabed Authority, a symbolic beginning of this new phase, and we look forward to working with other States to ensure the operational success of the Authority and of its subsidiary organs. As we have previously stressed, the Authority, if it is to sustain international credibility, must operate on, *inter alia*, the principle of cost effectiveness, a requirement reflected in the terms of the implementing Agreement and of the current draft resolution.

Australia supported the decision by the first meeting of States parties to the Convention, which was held in New York on 21 and 22 November of this year, to defer the establishment of the International Tribunal for the Law of the Sea until 1 August 1996 so as to allow States which had not yet ratified the Convention a reasonable time to complete their ratification procedures. Australia considers that the Convention's innovative and flexible dispute-settlement provisions will play a vital role in ensuring consistent implementation of the Convention's provisions and in creating a body of international law which will interpret those provisions in a uniform

manner. We also believe that the Tribunal will play a central role in the dispute-settlement process. The one-off deferment will, however, ensure a more equitable representation of judges from different legal systems and geographic groups and will allow the Tribunal to operate from a broader legal and financial base. For these reasons, the one-off deferment cannot but strengthen the base from which the Tribunal will commence its functioning and enhance its international legal stature. We look forward to beginning work towards the establishment of such an effective and efficient Tribunal at the next meeting of States parties to be held from 15 to 19 May 1995.

Australia recognizes the long-standing contribution of the United Nations in law-of-the-sea matters and the continuing contribution it will make.

Australia would like to express its appreciation to the Secretary-General — appreciation is also reflected in the terms of the current draft resolution — for the work carried out by the Division for Ocean Affairs and the Law of the Sea in the lead-up to and immediately following the entry into force of the Convention. However, we consider that the Division's job has only just begun. Australia believes that in this new phase of the law of the sea the Division for Ocean Affairs and the Law of the Sea will play an important role as the central body with responsibility for, *inter alia*, compiling information on implementation of the Convention, responding to requests from States and competent international organizations and preparing specific reports. While we recognize that other institutions created by the Convention will also have a role in providing information on specific areas within their competence, it will be crucial for the Division to continue to consolidate its role as a focal point for the preparation of material and meetings relating to the Convention as a whole.

The Agreement relating to the Implementation of Part XI of the Convention, which provides for a system of provisional membership, and the decision of the first meeting of States parties for a one-off deferment of the Tribunal to allow States not yet parties to complete their ratification procedures, as well as the statements by delegations at the inaugural meeting of the Authority, have all demonstrated a genuine spirit of cooperation and a concrete desire to work together towards universal participation in the Convention.

Australia believes strongly that universal participation in the Convention is the best means of achieving long-term order and stability in the world's oceans. By way of conclusion, therefore, we would once again urge all States that have not yet ratified the Convention to increase their efforts to do so as soon as possible.

Mr. Zlenko (Ukraine): This year, 1994, is of special importance to the law of the sea. The United Nations Convention on the Law of the Sea entered into force on 16 November 1994, and on that very day the International Seabed Authority was established and the first session of its Assembly began its work.

All this would not have been possible without the adoption of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea. That crucial Agreement was adopted on 28 July 1994. I am glad to announce that Ukraine is about to sign the Agreement. It is to be hoped that by the end of 1995 Ukraine will complete the necessary parliamentary procedures and ratify the Convention.

We have travelled a lengthy path together through thousands of hours of negotiations to reach today's compromise. The journey began in 1967. However, after our long trek, we have now reached a point from where we must now set out on yet another long journey. We must now make the Convention work for the benefit of all nations — large and small, developing and developed, coastal and land-locked.

Ukraine has always viewed the Convention not only as a charter for the oceans but as a comprehensive system of economic and political cooperation in marine-related matters as well. In other words, we have now arrived at a starting point, at the beginning of the implementation of the Convention and its practical use.

I should like to read out the following very important sentence from the Secretary-General's report:

> "At this important juncture in the historic treaty-making process, the Secretary-General stands ready to extend, using all resources at his disposal, whatever assistance Governments may need in accepting and implementing the Convention." *(A/49/631, para. 3)*

We welcome that statement by the Secretary-General. What is needed now is the concrete programme that will allow for the use of the benefits to be derived under the Convention.

The United Nations has a crucial role to play in the global implementation of the Convention. The Secretary-General is entrusted with special responsibilities under the Convention. These are specified in, *inter alia*, paragraph 15 of draft resolution A/49/L.47. That paragraph is a good basis for the future elaboration of more detailed approaches. In this context, the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs acquires a new and much more important dimension.

Mr. Mwaungulu (Malawi), Vice-President, took the Chair.

But this is not enough. We view the role of the United Nations on the law of the sea in a much broader sense. We have in mind the development of a specific infrastructure allowing for the provision of marine-related assistance and services at the multilateral level by those who have the capacity to those who need this assistance. This is important for both developing and developed countries, and especially so for countries in transition. Ukraine, for example, has a substantial scientific research fleet which can be used for many types of marine scientific research. We are ready to provide assistance in this field. Ukraine also has a number of shipyards capable of constructing different types of ships, even up to and including those the size of aircraft carriers. These are but two examples.

Of course, we are developing bilateral relations in order to utilize this potential to the fullest extent. But this is not enough. I want to emphasize again that we need an infrastructure for such cooperation at the level of the United Nations.

Ukraine participated as an observer at the meeting of States parties to the Convention concerning the establishment of the International Tribunal for the Law of the Sea, which was held in New York from 21 to 22 November 1994. We welcome the decision adopted by the meeting to hold the election of the members of the Tribunal on 1 August 1996. We would like to emphasize the importance of paragraph 5 of the decision stating, *inter alia*, that

> "all procedures relating to the election of the members of the Tribunal as provided for in the Convention shall apply".

This provision is especially important with respect to the membership of the Tribunal. I wish to quote paragraph 2 of article 3 of annex VI of the Convention, which contains the Statute of the International Tribunal for the Law of the Sea. It states:

> "There shall be no fewer than three members from each geographical group as established by the General Assembly of the United Nations."

Since the adoption of the Convention, Ukraine has provided constant and active support for the efforts to consolidate the legal order governing the seas and oceans. In its legislative practices, Ukraine has followed the letter and the spirit of the Convention very closely. For example, the recently adopted law of Ukraine on the State frontier of Ukraine was drafted in strict conformity with the provisions of Part II of the Convention regarding, *inter alia*, the 12-nautical-mile breadth of the territorial sea, the right of innocent passage throughout the territorial sea, baselines, the definition of internal waters and the procedures governing the entry of foreign non-military vessels and warships into the internal waters and ports of Ukraine.

Ukraine is continuing the process of reviewing its national legislation with a view to bringing it into full conformity with the Convention.

In conclusion, I would like to point out that, as in previous years, Ukraine is one of the sponsors of the draft resolution on the law of the sea. We hope that the General Assembly will adopt it by consensus.

Ms. Wilmshurst (United Kingdom): The representative of Germany has already made a statement on behalf of the European Union, and the United Kingdom associates itself fully with it.

As a nation with a long maritime history and wide-ranging maritime interests, the United Kingdom has particular pleasure in seeing the United Nations Convention on the Law of the Sea come into force with the real prospect of universal application. The United Kingdom has announced its intention to accede to the Convention and has signed and is provisionally applying the Agreement relating to the implementation of Part XI of the Convention. We attended the inaugural meeting of the International Seabed Authority in Kingston last month, and we shall be attending the first substantive meeting in February and March of 1995. We look forward to continued cooperation with those countries from all parts of the world that share our desire for the universal application of the Convention and the entry into

force of the Agreement relating to the implementation of Part XI.

My delegation is most grateful to Ambassador Nandan of Fiji for his role in the preparation of draft resolution A/49/L.47, which the United Kingdom is very glad to co-sponsor, and for his lucid introduction of the draft resolution this morning.

The United Kingdom shares the concern expressed in the draft resolution that all States should implement the United Nations Convention on the Law of the Sea in a consistent manner. My delegation welcomes the reference in operative paragraph 21 of the resolution to the Hamilton Shirley Amerasinghe Memorial Fellowship. That Fellowship has the capacity to play an important part in assisting in the effective and consistent application of the provisions of the Convention by providing educational opportunities for those involved in the law of the sea. The Fellowship provides for chosen Fellows to pursue postgraduate-level research and training in the field of the law of the sea, in its implementation and in related marine affairs. But the Fellowship is short of funds. It is not, at present, able to take advantage of all of the offers it has received from universities and other institutions for courses in the law of the sea. Paragraph 21 of the resolution invites States to contribute to the Fellowship and my delegation is pleased to announce that the United Kingdom intends to commit funds to the Fellowship sufficient for a student from a developing country to take a year's course in the law of the sea at a United Kingdom university.

Mr. Neil (Jamaica): I have the honour to speak today on behalf of the 12 States members of the Caribbean Community (CARICOM) and on behalf of Suriname.

The international community has witnessed significant developments during this year in the area of the law of the sea. In July, after a lengthy period of negotiations, the General Assembly adopted the Agreement relating to the implementation of part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (resolution 48/263, annex); this has brought to an end much of the uncertainty over the future of the Convention. The Convention's entry into force on 16 November 1994 was a historically significant milestone marked by the holding of the inaugural meeting of the International Seabed Authority in Kingston, Jamaica, from 16 to 18 November. We must also welcome the holding, in November, of the first meeting of States parties, which concentrated on arrangements for the establishment of the International Tribunal for the Law of the Sea.

The next stage, and the main challenge before us, is to ensure that the Convention is effectively implemented and that the institutional arrangements elaborated in it are laid on a firm foundation and are given the support and resources to perform their functions effectively.

The Caribbean States and Suriname, for reasons of geography and history, have always had a special interest in, and have given full support to, the Convention on the Law of the Sea as the mechanism for addressing ocean-related issues and providing the foundation for building international cooperation. It not only defines the terms of that cooperation and serves to enhance coordination and promote coherence of action, but also provides a universal legal framework for rationally managing marine resources and an agreed set of principles to guide consideration of the numerous issues and challenges that will continue to arise. From navigation and overflights to resource exploration and exploitation, conservation and pollution, fishing and shipping, the Convention provides a focal point for international deliberation and action.

Despite the overwhelming support for the Convention, we cannot lose sight of the fact that the Convention, which is designed for mankind as a whole, must secure the universal participation of all mankind. Our continued search for universality has in the past four years centred around a dialogue under the auspices of the Secretary-General aimed at addressing issues of concern to some States which found difficulties with certain aspects of part XI of the Convention. That search for universality has always recognized that the integrity of the Convention as a whole must be maintained and that the tremendous political, economic and social changes within the international community have in no way invalidated the fundamental basis of the Convention: the principles of the common heritage of mankind on which part XI of the Convention is based. It is a matter of great importance that the negotiations under the auspices of the Secretary-General have culminated in the Agreement relating to the implementation of part XI of the Convention.

The CARICOM States and Suriname welcome and support the implementation Agreement because it provides an opportunity to secure true universality in the application of the Convention and devises mechanisms for securing such universality, even in advance of ratification, by allowing for provisional application of part XI of the Convention. We regard it as specially

important that all States that have not yet done so should ratify or accede to the Convention in the coming months so as to ensure the fullest support for the arrangements to implement the provisions of the Convention.

With regard to the International Seabed Authority, which is an autonomous institution created under the Convention, we have accepted that the evolutionary approach adopted in the implementation of the regime for the common-heritage Area recognizes the need for a cost-effective institution which takes into account the functional needs of the organs and subsidiary bodies of the Authority to discharge effectively their respective responsibilities at various stages of the development of activities in the seabed.

As far as the financial arrangements are concerned, it is our confident expectation that paragraph 8 of General Assembly resolution 48/263 will be smoothly implemented, fully taking into account the decisions and recommendations of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea. We wish to stress that the financial provisions should be made on the basis that the Authority will have control of its own budget, as stipulated in the Agreement.

We feel proud that Jamaica, a member of the Caribbean subregion, will be the host country for the International Seabed Authority. This is also unique because, for the first time, a small island developing State enjoys the singular honour of being endorsed as the headquarters of a body intended to serve the entire international community. The recent inaugural session of the Authority was of historic significance. It not only celebrated the entry into force of the Convention, but also served to confirm the fundamental role of the United Nations in finding solutions to questions of universal concern and to confirm that the principles of the common heritage of mankind on which part XI of the Convention is based must continue to serve for all time.

The entry into force of the Convention also brings Member States new obligations and opportunities arising from the extension of jurisdiction, the opening of new fields of activity, and increased uses of the oceans. States are called upon to apply the new provisions in accordance with the spirit of the Convention, to harmonize national legislation with it and to fulfil their obligations under the Convention. Another major challenge for the international community will be the provision of the necessary assistance, particularly to developing States, in order to allow them to benefit from the rights they have acquired under the new regime. It is our hope that the Convention will become an engine of cooperation between developed and developing States in this regard.

The entry into force of the Convention triggers a series of actions to be taken by the Secretary-General in the near future, such as the convening of the second part of the first session of the International Seabed Authority,[9] to be held from 27 February to 17 March 1995 in Jamaica, the meeting of States parties to the Convention to elect members of the Commission on the Limits of the Continental Shelf, and the meeting of States parties relating to the organization of the International Tribunal for the Law of the Sea, to be held in New York in May 1995. We are confident that the Secretary-General will effectively execute his obligations under the Convention, resolutions of the General Assembly and decisions of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea. We look forward to full participation in these meetings in order to further the realization of the purposes and objectives of the Convention.

We are now at the beginning of a new phase with a host of new challenges to face. It is therefore vital that we act together to ensure that all the arrangements to implement the provisions of the Convention are made on the basis of a joint and united effort. In this spirit, Jamaica has joined in sponsoring draft resolution A/49/L.47; in our view, it would be entirely appropriate for the General Assembly to adopt it by consensus.

The President: We have heard the last speaker in the debate on this item.

We shall now proceed to consider draft resolution A/49/L.47.

Several representatives wish to speak in explanation of vote before the voting. May I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Illueca (Panama) *(interpretation from Spanish):* The delegation of Panama wishes to state that it will vote in favour of the draft resolution on the law of the sea contained in document A/49/L.47.

Located as it is on an inter-ocean canal, my country shares this Assembly's concern that we should recognize the universal nature of the United Nations Convention on the Law of the Sea and the establishment, under it, of a legal regime that will facilitate international communication and promote the peaceful uses of the seas and oceans.

The report of the Secretary-General in document A/49/631, submitted to the General Assembly pursuant to resolution 48/28, is an excellent contribution to the attainment of this goal and therefore deserves our warmest appreciation. The report, issued on 16 November 1994, the date of the entry into force of the Convention, contains important information as a basis for establishing criteria that will help to ensure the universality of the Convention and to promote cooperation and coordination in respect of marine affairs within the United Nations system.

On instructions from my Foreign Ministry, I am very pleased to announce formally to the Assembly that the Government of Panama intends to submit the United Nations Convention on the Law of the Sea, of 10 December 1982, to the National Assembly for approval in accordance with the procedure established under our Constitution with a view to its ratification.

Accordingly, the delegation of Panama will vote in favour of draft resolution A/49/L.47.

Mr. Bayar (Turkey): Turkey will vote against the resolution on the law of the sea contained in document A/49/L.47.

The reason for my delegation's negative vote is that some of the elements contained in the Convention on the Law of the Sea which had prevented Turkey from approving the Convention are still being retained in the resolution. Turkey supports international efforts to establish a regime of the sea which is based on the principle of equity and which can be acceptable to all States. However, the Convention does not make adequate provision for special geographical situations and, as a consequence, is not able to establish a satisfactory balance between conflicting interests.

Furthermore, the Convention makes no provision for registering reservations on specific clauses. Although we agree with the general intent and most of the provisions of the Convention, we were unable to sign it owing to these serious shortcomings.

This being the case, therefore, we cannot accept the provision in the resolution which requires States to conform with the Convention on the Law of the Sea in drafting their national legislations.

Mr. Tarev (Russian Federation) *(interpretation from Russian)*: The delegation of the Russian Federation will abstain in the vote on draft resolution A/49/L.47, on the law of the sea, for the following reasons.

Russia welcomes the entry into force of the 1982 Convention on the Law of the Sea. We believe that this will promote and enhance the level of cooperation among States with regard to the world's oceans and represents an important step in the cause of strengthening law and order on the seas. Strict compliance with the provisions of the Convention by all States is an indispensable precondition for harmonious cooperation in this area.

The Agreement on the Implementation of Part XI of the Convention, prepared at the consultations under the aegis of the Secretary-General and adopted on 28 July 1994, to a significant degree helps resolve the problem of the universality of the Convention by creating the needed bases towards this end.

At the same time, the Agreement bears the traces of a compromise on many issues which are important to Russia. In particular, the provisions concerning the financial aspects of the activities of the International Seabed Authority are not formulated in a sufficiently precise manner and are open to various interpretations.

Unfortunately, the tendency towards unjustified expenditures was already apparent on 16 November 1994, as was noted by the members of the Committee on International Affairs of the State Duma of Russia at its meeting on 21 November 1994. Russia's attitude to the Convention and to the Agreement will be determined by the extent to which there will be consistent implementation of the Agreement concerning the establishment and activity of the International Seabed Authority and, in particular, the regime for economizing on means and expenditures.

While recognizing the importance of these documents we do not at the present time see a sufficient basis for unconditional support of the draft resolution on the law of the sea.

The President: We shall now take a decision on draft resolution A/49/L.47.

In this connection I wish to announce that the following countries have become sponsors of draft resolution A/49/L.47: Barbados, Bahamas, Belize, Cambodia, Cape Verde, Cuba, Ghana, Philippines, Sudan, Trinidad and Tobago and Ukraine.

I call on the representative of the Secretariat.

Mr. Perfiliev (Director, General Assembly Affairs Division): Should the General Assembly adopt draft resolution A/49/L.47, it would by paragraphs 9, 10, 11, 13, 15, 16, 17, 19, 22 and 23 of the draft resolution request the Secretary-General to undertake a number of activities.

Should the General Assembly adopt the draft resolution, the Secretary-General would undertake the activities outlined therein.

With regard to the request contained in operative paragraph 9 of the draft resolution to, *inter alia,* implement the decision of the General Assembly contained in paragraph 8 of its resolution 48/263, taking into account the decisions and recommendations of the Preparatory Commission, related estimates of additional-resource requirements have been submitted by the Secretary-General in document A/C.5/49/25.

With regard to operative paragraph 11 of the draft resolution, it had been decided that the States parties to the Convention would hold one session in 1995, with the possibility of holding another session in the same year. Each session would last a week. The first session would be held from 15 to 19 May 1995, with four meetings a day, two in the morning and two in the afternoon. It has been proposed that the second session take place from 21 to 25 August 1995, subject to confirmation by the States parties. There would be four meetings a day, two in the morning and two in the afternoon.

Interpretation and documentation services in all six official languages would be provided for the meetings. No summary records would be required. It is assumed that the conference servicing requirements for these meetings would be met from within resources programmed under subsection 25 (e), Office of Conference and Support Services, of the programme budget for the biennium 1994-1995. Accordingly, no additional requirements for conference servicing would arise.

With regard to the other activities mentioned in operative paragraphs 10, 13, 15, 16, 17, 19, 22 and 23 of the draft resolution, while additional resource requirements would arise, the entry into force of the Convention and the consequent discontinuation of a number of activities anticipated in the programme budget for 1994-1995, it would be possible to absorb these additional resource requirements within the initial appropriations authorized under section 7 of the programme budget for the biennium 1994-1995.

With regard to the additional activity mentioned in operative paragraph 22 of the draft resolution, should the General Assembly adopt the draft resolution the Secretary-General would, as requested, prepare a programme, the resource requirements of which in 1996-1997 would be kept within the levels of resources approved under section 7 of the programme budget for the biennium 1994-1995.

The President: We shall now begin the voting procedure. I put to the vote draft resolution A/49/L.47. A recorded vote has been requested.

A recorded vote was taken.

In favour:

Algeria, Andorra, Argentina, Armenia, Australia, Austria, Bahamas, Bahrain, Barbados, Belarus, Belgium, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chile, China, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore,

Solomon Islands, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, The Former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Viet Nam, Yemen, Zambia, Zimbabwe

Against:

Turkey

Abstaining:

Ecuador, Kazakhstan, Peru, Russian Federation, Tajikistan, Thailand, Venezuela

Draft resolution A/49/L.47 was adopted by 130 votes to 1, with 7 abstentions (resolution 49/28).

The President: We shall now hear those representatives who wish to speak in exercise of the right of reply.

May I remind members that, in accordance with General Assembly decision 34/401, statements in exercise of the right of reply are limited to 10 minutes for the first intervention and 5 minutes for the second intervention and should be made by delegations from their seats.

Mr. Zhang Kening (China) (*interpretation from Chinese*): The representative of Viet Nam, in his statement this morning, mentioned the territorial disputes between China and Viet Nam over the South China Sea. He also said that certain foreign petroleum companies are cooperating in exploring in that area and that this had caused the disputes between the two countries.

China would like to reiterate the principled position of the Chinese Government.

First, China has indisputable sovereignty over the Xisha and Nansha Islands and the maritime area adjacent to them.

Secondly, Wanantan is part of the Nansha Islands, and I repeat that China has indisputable sovereignty over the Xisha and Nansha Islands and the maritime area adjacent to them. This is based on international law and history. Viet Nam is engaging in research activities in this area, thereby seriously infringing upon the sovereignty of China over the Nansha Islands and its maritime interests.

Thirdly, as regards the territorial question of the boundary between China and Viet Nam, both sides agreed to find a solution through negotiation. China has consistently held that we should try to find a solution to the dispute over the Nansha Islands. We advocate setting the dispute aside and jointly exploring in the area.

In his statement this morning, the representative of Viet Nam made comments that were not based in fact. The Chinese delegation therefore had to express its regret and clarify its position. The Chinese delegation requests the Secretariat of the United Nations to place our statement on record.

Mr. Nguyen Duy Chien (Viet Nam): Our delegation does not intend to raise the question of the disputes in the Eastern Sea during this debate. We should like only to supply further information with regard to paragraph 55 of the Secretary-General's report in document A/49/631.

Our position was clearly expressed in the statement made by my Ambassador this morning. However, some remarks have been made questioning the sovereignty of Viet Nam over its two archipelagos, Hoang Sa and Truong Sa. We therefore wish to add that Viet Nam's sovereignty over Hoang Sa (Paracel) Islands and Truong Sa (Spratly) Islands is indisputable.

We should like to reiterate our hope that the parties concerned, while making active efforts to promote negotiations towards a fundamental and long-term solution, will maintain stability on the basis of the status quo and refrain from any act that can further complicate the situation and, refrain from the use of force or the threat of force.

The President: May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 35?

It was so decided.

The meeting rose at 5.05 p.m.